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LOCAL LAW FILING

NEW YORK STATE DEPARTMENT OF STATE
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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Village of Fayetteville Local Law No. 4 of the year 2010

A local law to amend Chapter 55 of the Code of the Village of Fayetteville by replacing the existing Sections 55-1 to 55-5 with new Sections 55-1 to 55-21.

Be it enacted by the Board of Trustees of the
Town/Village of Fayetteville as follows:

CHAPTER 55

BUILDINGS, STRUCTURES, PREMISES, EQUIPMENT & CONDITIONS

UNSAFE, UNFIT OR UNLAWFUL

GENERAL REFERENCES

Fire prevention and building construction administration — See Ch. 78.

Housing standards — See Ch. 99.

§ 55-1 Purpose.

Unsafe buildings, structures, premises, equipment and conditions may pose a threat to life and property in the Village of Fayetteville. Buildings, structures, premises, equipment and conditions may become unsafe by reason of fire or other casualty, the elements, age, general deterioration or for other reasons. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for children and others, who may be injured therein, as well as a point of congregation for vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. Other unsafe conditions may also jeopardize the health, safety and welfare of the people within the Village of Fayetteville. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Village of Fayetteville by requiring such unsafe buildings, structures, premises, equipment and conditions to be remedied, repaired or demolished and removed.

§ 55-2 Title.

This chapter shall be known and may be cited as the "BUILDINGS, STRUCTURES, PREMISES, EQUIPMENT & CONDITIONS- UNSAFE, UNFIT OR UNLAWFUL" in the Code of the Village of Fayetteville."

§ 55-3 Interpretation; most restrictive provisions to govern.

- A. This chapter shall be interpreted in such a way, wherever possible, so that the meaning of the words and phrases in sections herein shall make them valid and legal in their effect.
- B. Whenever the requirements of this chapter are at variance with requirements of other lawfully adopted rules, regulations, ordinances, laws or this chapter itself, the most restrictive provisions or those imposing the higher standards shall govern.

§ 55-4 Definitions and word usage.

- A. The word "shall" is always mandatory; the words "may or will" are always permissive.

- B. The following words or phrases as used in this chapter are defined as follows:

CODES ENFORCEMENT OFFICER

A duly authorized representative of the Village of Fayetteville.

BUILDING

Any structure or part thereof, or the remains thereof, which has or had a roof or is or was intended for shelter, housing or enclosure of persons, animals or chattels. The term "building" shall also include swimming pools.

STRUCTURE

A building or anything constructed, erected or placed above or below ground, other than plant life, which requires temporary or permanent location on or the support of the soil or which is attached to any structure, including, without limitation, mobile homes, sheds, houses, fences or any other man-made compilation of materials, together with the remnants or remains of such structure.

PREMISE

A lot, plot or parcel of land, easement or public way, including any structures thereon.

CONDITION

The minimum conditions for maintaining a building, structure, premise or equipment.

EQUIPMENT

A boiler, heating equipment, elevator, moving stairway component, electrical wiring or device, flammable liquid containers or other equipment on the premises or within a building or structure.

UNSAFE BUILDING, STRUCTURE, PREMISE OR CONDITION

An unsafe building, structure, premise or condition is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the building, structure or premise by not providing minimum safeguards including providing adequate egress to protect or warn occupants in the event of fire, or because such building, structure, premise or condition is unsanitary, inadequately maintained, damaged, decayed, dilapidated, structurally unsafe, abandoned or of such faulty or incomplete construction, unstable foundation or condition.

UNLAWFUL BUILDING, STRUCTURE, PREMISE OR CONDITION

An unlawful building, structure, premise or condition is one found in whole or in part to be occupied by more persons than permitted under the Uniform Fire Prevention and Building Code and/or the Code of the Village of Fayetteville, or was erected, altered or occupied contrary to law.

UNFIT FOR HUMAN OCCUPANCY

A building, structure, premise or condition is unfit for human occupancy whenever such building or structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or

lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the Uniform Fire Prevention and Building Code and/or the Code of the Village of Fayetteville, or because the location of the building or structure constitutes a hazard to the occupants of the building or structure or to the public.

UNSAFE EQUIPMENT

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway component, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

§ 55-5 Unsafe buildings, structures, premises, equipment and/or conditions prohibited.

- A. All buildings, structures, premises, equipment and/or conditions which are determined by the Codes Enforcement Officer to be unsafe, unfit for human occupancy, unlawful, and/or hazardous or dangerous to the public are hereby declared to be illegal and shall be abated by repair and restoration including such measures as may reasonably be necessary to prevent unauthorized access thereto by children and other persons or by demolition in accordance with the procedure of this chapter.
- B. No person owning, possessing or controlling a building, structure, premise, and/or condition within the Village of Fayetteville shall permit, suffer or allow said building, structure, premise, equipment, and/or condition now or hereafter to become dangerous or unsafe to the public from any cause whatsoever.

§ 55-6 Unsafe buildings, structures, premises, equipment and/or conditions criteria.

- A. Unsafe buildings, structures, premises, equipment and/or conditions shall include, but not be limited to, all buildings, structures, premises, equipment and/or conditions which have any one or more of the following defects:
 - (1) Those whose interior walls or other vertical structure members list, lean or buckle to such an extent that the structural integrity of the structure is compromised and unsafe.
 - (2) Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% or more of damage or deterioration of the non-supporting enclosing or outside walls or covering.
 - (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - (4) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of persons or property.
 - (5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to have potential to cause injury to the health, safety or general welfare of those living on or about the buildings, structures or premises.
 - (6) Those having light, air or sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live or work therein.
 - (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of escape.
 - (8) Those which have parts thereof which are so attached that they may fall and injure persons or property.
 - (9) Those remaining vacant and unattended for a period of in excess of one year.
 - (10) Those which, because of their condition, are otherwise dangerous or unsafe to the health, safety or general welfare of persons or property.
 - (11) Those existing in violation of any provision of New York State Uniform Fire Prevention and Building Code and/or the Code of the Village of Fayetteville.

§ 55-7 Unsafe buildings, structures, premises, equipment and/or conditions abatement.

- A. All unsafe buildings, structures, premises, equipment and/or conditions are hereby declared to be illegal and shall be abated by repair and restoration, including such measures as may reasonably be necessary to prevent unauthorized access thereto by children and other persons, or by demolition and removal in accordance with the procedures set forth in this chapter.
- B. All unsafe buildings, structures, premises, and/or equipment are hereby declared to be public nuisances and shall be repaired, vacated, restored, rehabilitated, removed or demolished so that such building, structure, premises, equipment or condition shall no longer be unsafe.
- C. All conditions existing on premises which are unsafe, unsanitary or which create danger or hazard to human life or constitute a hazard to the safety, health or welfare of person or property are unsafe conditions and are hereby declared to be illegal and shall be abated by repair, restoration, removal, demolition or otherwise.

§ 55-8 Procedures for Complaints.

- A. Complaints alleging a violation shall be submitted to the Office of Code Enforcement in writing, on a form provided by said Office, and, in order to constitute a bona fide complaint, mandating review, shall include the following information:
 - (1) The full name, address and telephone number of the complainant;
 - (2) A description of the alleged violation;
 - (3) The date and time of the alleged violation;
 - (4) The address and Tax Map number of the property in alleged violation; and
 - (5) A reference to the applicable law allegedly violation, if known.
- B. The complainant's name shall not be disclosed to the alleged owner and/or representative of the owner of the property in alleged violation unless permission is given by the complainant or a court of jurisdiction orders the Village of Fayetteville to disclose the name of the complainant.
- C. Complaints shall be reviewed and investigated by the Codes Enforcement Officer for a determination of the validity of the complaint. Such Codes Enforcement Officer shall thereafter indicate on the aforementioned complaint form the corrective action required.
- D. Whenever the Codes Enforcement Officer determines, based upon his/her knowledge and/or experience, that the complaint requires further investigation, the Codes Enforcement Officer shall cause or make an inspection thereof.

§ 55-9 Duties of Codes Enforcement Officer.

All buildings, structures, premises, equipment and/or conditions that are determined by the Codes Enforcement Officer based upon his/her knowledge and/or experience, to be unsafe, unsanitary, unfit for human occupancy, unlawful, and/or hazardous or dangerous to the public shall be declared to be illegal and shall be abated by repair and restoration including such measures as may reasonably be necessary to prevent unauthorized access thereto by children and other persons or by demolition in accordance with the procedure of this chapter.

- A. Whenever the Codes Enforcement Officer determines, based upon his/her knowledge and/or experience, that any building, structure, premise, equipment and/or condition or portion of any such building, structure, premise, equipment and/or condition to be unsafe, unsanitary, unfit for human occupancy, unlawful, and/or hazardous or dangerous to the public as defined by this chapter; or

whenever the Codes Enforcement Officer determines, based upon his/her knowledge and/or experience, that any condition to be unsafe, unsanitary, unfit for human occupancy, unlawful, and/or hazardous or dangerous to the public as defined by this chapter; said Codes Enforcement Officer shall, in the manner specified in §55-9, A (1) through (4), serve written report to the owner of said building, structure, premise, equipment and/or condition or one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, which said written report shall contain:

- (1) A description of the building, structure, premise, equipment and/or condition deemed unsafe;
- (2) A statement of the particulars in which said building, structure, premise, equipment and/or condition is dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards including providing adequate egress to protect or warn occupants in the event of fire, or because such structure is unsanitary, inadequately maintained, damaged, decayed, dilapidated, structurally unsafe, abandoned or of such faulty or incomplete construction or unstable foundation.;
- (3) If appropriate, order the owner (or such other persons) to vacate the building, structure or premise (or to have the building, structure or premise vacated) or stop using equipment until it is put in safe condition as confirmed by the Codes Enforcement Officer;
- (4) In cases of emergency which, in the opinion of the Codes Enforcement Officer, involve imminent danger to human life or health, he shall promptly cause such building, structure, premise or portion thereof to be made safe or removed. For this purpose, he may at once enter such building, structure or premise on which it stands, or abutting buildings, structures, and/or premises, with such assistance and at such cost as may be necessary. He may vacate adjacent buildings, structures and/or premises and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private way;
- (5) Issue an order to the owner (or such other persons) requiring the building, structure, premise, equipment and/or condition to be made safe and secure by repair or restoration including such measures as may reasonably be necessary to prevent unauthorized access thereto by children and other persons or otherwise or to be removed or demolished within a specified period of time, and including a date within which said work shall be commenced.
- (6) Place a notice on all unsafe buildings, structures, premises or equipment reading as follows:

"THIS BUILDING, STRUCTURE, PREMISE, EQUIPMENT AND/OR CONDITION HAVE BEEN FOUND TO BE UNSAFE BY THE CODES ENFORCEMENT OFFICER OF THE VILLAGE OF FAYETTEVILLE.

This Notice is to remain on this building, structure, premise, equipment and/or condition until the building, structure, premise, equipment and/or condition is repaired, restored, removed or demolished in accordance with the notice which has been given the owner or one of the owner's representatives, agents, lessees or other person having a vested or contingent interest in the property. It is unlawful to remove this Notice until such Notice is complied with. In the event that this building, structure, premise, equipment and/or condition is not repaired, restored, removed or demolished, the Village of Fayetteville may repair or demolish this building, structure, premise, equipment and/or condition and the cost thereof shall be the sole responsibility of the owner and shall be added to the next Village of Fayetteville's tax bill on the premises", and

- B. Report to the Mayor and the Board of Trustees any noncompliance with the report provided for in §55-9, A (1) through (4).

- C. Appear at all hearings conducted by the Board of Trustees and testify as to the condition of buildings, structures, premises, equipment and/or other conditions.

§ 55-10 Action by Village Board.

After receiving a report from the Codes Enforcement Officer as provided for in §55-9, A (1) through (4) above, the Village Board of Trustees may:

- A. In the event that the owner of the unsafe building, structure, premise and/or equipment, as the case may be, the owner's executor, legal representative, agent, lessee or other person having a vested or contingent interest in the same fails, neglects or refuses to comply with the written notice, the Village Board shall conduct a hearing at the time and place set forth in a notice of hearing sent to the owner of said building, structure, premise, equipment and/or condition or one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same and hear such testimony from the Codes Enforcement Officer, the owner or one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk of the County of Onondaga, or such other person or persons who, in the opinion of the Village Board, have relevant testimony, that is relative to the building, structure, premise, equipment or condition found by the Codes Enforcement Officer who found the building, structure, premise, equipment and/or condition to be unsafe.
- B. Make written findings of fact from the testimony offered pursuant to Subsection A as to whether or not the building, structure, premise, equipment, premise or condition in question is an unsafe building within the terms hereof.
- C. Issue an order based upon the findings of fact made pursuant to Subdivision B, including, without limitation, if appropriate, an order commanding the owner or one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk of the County of Onondaga to remedy, repair, vacate and/or demolish and remove any building, structure, premise, equipment or condition found to be unsafe within the terms of this chapter; provided, however, that any person so notified, except the owners, shall have the privilege of either vacating or repairing the unsafe building, structure, premise, equipment or condition; and any person not the owner of the unsafe building, structure, premise, equipment, premise or condition but having an interest in the building shall have the right to demolish and remove the unsafe building, structure, premise, equipment or condition at his or her own risk to prevent a lien from being placed against the premises upon which the unsafe building, structure, premise, equipment or condition exists by the Village as provided in Subdivision E.
- D. If, after hearing the evidence, the Village Board determines that said building, structure, premise, equipment or condition is unsafe, the Village Board may direct the Codes Enforcement Officer to cause said building, structure, premise, equipment or condition to be made safe and secure by such repairs, restoration or other measures which may reasonably be necessary or to be demolished and removed and the land upon which it is located cleared of debris and all excavations filled and graded.
- E. If the order provided for in Subsection C is not complied with within the time allowed in such order, the Board of Trustees may cause the building, structure, premise, equipment or condition to be vacated and remedied or repaired, or demolished and removed, as the facts may warrant, and cause the costs of that remedy, repair, vacating, demolition and removal to be charged against the real property on which the building, structure, premise, equipment, or condition existed, as a municipal lien, or cause those costs to be added to the tax rolls as an assessment or to be levied as a special tax against the real

property upon which the building, structure, premise, equipment, premise or condition stands or exists or did stand or exist, or to be recovered in a suit against the owner or owners.

F. The Village Board may also proceed in the manner described in §55-14 and §55-15.

§ 55-11 Service of notice.

The date of the hearing shall be scheduled not less than five days after the date of service of the notice. The notice shall be served:

- A. By personal service of a copy thereof upon the owner, executor, administrator, agent or any person having a vested or contingent interest in such unsafe building, structure, premise, equipment, or condition upon which the unsafe building, structure, premise, equipment, or condition exists, as such owner or other person is shown on the records of the receiver of taxes for the village or as shown by the records of the County Clerk of the County of Onondaga;
- B. If no such person can be reasonably found, by mailing to such owner by certified or registered mail a copy of such notice directed to his last known address as shown by the above records, and a copy of such notice being fixed upon the unsafe building, structure, premise and/or equipment; or
- C. By personal service of a copy of such notice upon any adult person residing in or occupying said premises.
- D. If the person can be reasonably found, and by affixing a copy of such notice upon the unsafe building, structure, premise and/or equipment.

§ 55-12 Assessment of cost and expense.

All costs and expenses incurred by the Village in connection with the enforcement of this Chapter 55 proceedings to make such building, structure, premise, equipment and/or condition safe and secure, whether by repair, restoration, removal, demolition or otherwise, including, without limitation, the costs of actually repairing, restoring, removing, demolition and/or securing said building, structure, premise, equipment and/or condition, and the attorney fees, engineering fees and other professional fees and disbursements incurred by the Village in connection with such unsafe building, structure, premise, equipment and/or condition, may be assessed against the premises upon which said building, structure, premise, equipment and/or condition is or was located, and the owner(s) of such property shall also be jointly and severally liable to the Village for all such costs.

§ 55-13 Emergency notice to vacate.

When the Village Board finds, by resolution, that there is present a clear and imminent danger to the life, safety or health of any person or property, the notice required under § 55-9 may also state that the building, structure, premise, equipment and/or condition or portion thereof shall be vacated and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Codes Enforcement Officer. The Codes Enforcement Officer shall also cause to be posted at each entrance to such building a notice stating –

"This building is unsafe and its use or occupancy is prohibited by the Codes Enforcement Officer of the Village of Fayetteville. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person to remove such notice without permission of the Codes Enforcement Officer, or for any reason to enter the building except for the purpose of making the repairs or of demolishing the same."

purpose only, all provisions of law relating to violations shall apply.

- G. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violation of provisions of this chapter, other than those which reference penalties for a knowing violation, shall be deemed misdemeanors; and for such purpose only, all provisions of law relating to misdemeanors shall apply to such provisions.

§ 55-22 Appearance tickets.

The Codes Enforcement Officer of the Village of Fayetteville shall have authority, pursuant to Article 150 of the New York Criminal Procedure Law, to issue appearance tickets as defined therein for the purpose of enforcing this chapter.

§ 55-23 Interpretation; severability; when effective.

- A. This chapter shall not relieve or reduce any other requirements of the Code of the Village of Fayetteville.
- B. If any provision, sentence, clause, section or part of this chapter is for any reason found to be unconstitutional, illegal or invalid, such finding shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter. It is hereby declared to be the intent of the Village of Fayetteville Board of Trustees that this chapter would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.
- C. This chapter shall take effect 10 days after filing with the Secretary of State of the State of New York.

1. This Local Law is effective immediately.

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of 2010 of the Village of Fayetteville was duly passed by the Board of Trustees on June 21, 2010, in accordance with the applicable provisions of law.


I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in the above paragraph.


Village Clerk

Date: 7-12-10

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Edward J. Spencer, III
Village Attorney